

KAEMPFER CROWELL  
Robert McCoy, No. 9121  
Sihomara L. Graves, No. 13239  
1980 Festival Plaza Drive, Suite 650  
Las Vegas, Nevada 89135  
Telephone: (702) 792-7000  
Facsimile: (702) 796-7181  
Email: [rmccoy@kcnvlaw.com](mailto:rmccoy@kcnvlaw.com)  
Email: [sgraves@kcnvlaw.com](mailto:sgraves@kcnvlaw.com)

Alyson Bustamante Jones (*pro hac vice*)  
BUTLER SNOW LLP  
1020 Highland Colony Pkwy., Suite 1400  
Ridgeland, Mississippi 39157  
Telephone: (601) 985-4427  
Facsimile: (601) 985-4500  
Email: [alyson.jones@butlersnow.com](mailto:alyson.jones@butlersnow.com)

Attorneys for Defendant Zeltiq  
Aesthetics, Inc.

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

MICHELE BROWN,

Plaintiffs,

vs.

ZELTIQ AESTHETICS, INC.;  
ORANGE TWIST LLC; DOES 1–10;  
ROE CORPORATIONS 11–20; ABC  
LIMITED LIABILITY COMPANIES  
21–30,

Defendants.

Case No. 2:22-cv-00972-RFB-NJK

**STIPULATED CONFIDENTIALITY  
AND PROTECTIVE ORDER**

Plaintiff Michele Brown and Defendants Zeltiq Aesthetics, Inc. and  
Orange Twist LLC (collectively “the Stipulating Parties”) hereby stipulate and  
agree as follows:

1           1. This Stipulated Confidentiality and Protective Order is  
2 intended to facilitate prompt discovery and preparation for trial while also  
3 affording protection to any materials designated as confidential (“Confidential  
4 Discovery Materials”) per the terms of this Order and consistent with Federal  
5 Rule of Civil Procedure 26(c) and other applicable state and federal law. The  
6 Stipulating Parties further stipulate and agree that the Confidential Discovery  
7 Materials subject to this Protective Order shall be used solely for the purpose of  
8 this litigation and shall not be produced to any other person, including other  
9 parties to this litigation, without explicit agreement of the Stipulating Parties and  
10 further order of the Court.

11           2. This Protective Order shall govern any and all hard copy and  
12 electronic materials produced by any party to the litigation, including the  
13 information contained therein, and all other information including all copies,  
14 excerpts, summaries, or compilations thereof revealed in a document,  
15 deposition, other testimony, or discovery response produced by any party to this  
16 proceeding (the “Producing Party”) to any other party (the “Receiving Party”).  
17 This Protective Order is binding upon both Stipulating Parties including their  
18 respective corporate parents, subsidiaries, and affiliates, and their respective  
19 attorneys, principals, experts, consultants, representatives, directors, officers,  
20 employees, and others as set forth in this Order. If additional parties are added  
21 other than parents, subsidiaries, or affiliates of current Stipulating Parties, then  
22 their ability to receive the Confidential Discovery Materials as set forth in this  
23 Protective Order will be subject to them being bound, by agreement or Court  
24 Order, to this Order; provided, however, that no Confidential Discovery

1 Materials shall be provided to other parties to this litigation who are not  
2 Stipulating Parties without explicit agreement of the Stipulating Parties or  
3 further order of the Court.

4           3. The term “Confidential Discovery Materials” refers to  
5 confidential, proprietary, trade secret, and/or sensitive commercial information,  
6 as designated in good faith by the Producing Party in accordance with the terms  
7 of this Order as being entitled to protection under Federal Rule of Civil  
8 Procedure 26(c), other applicable case law or rules, the Uniform Trade Secrets  
9 Act, federal and state privacy laws, and/or other applicable laws and regulations.  
10 Confidential Discovery Materials containing confidential information as used in  
11 this Order means documents containing trade secrets and other information that  
12 is of a proprietary, business, financial, or technical nature and not known or  
13 available to competitors, potential competitors, or the public, the value of which  
14 arises from its being confidential and the disclosure of which (whether  
15 separately or in conjunction with other information being produced) is believed  
16 in good faith by the Producing Party to have the potential, if disclosed, for  
17 causing competitive harm to it or giving a competitive advantage to others.

18           4. This Stipulated Protective Order does not confer blanket  
19 protections on all documents, disclosures, or responses to discovery, and the  
20 protection it affords extends only to the specific information or items that are  
21 entitled to protection under applicable legal principles for treatment as  
22 confidential after individual review by the Producing Party.

23           5. No person who examines any item produced pursuant to a  
24 discovery request, or information that is protected by this Order, shall

1 disseminate orally, or by any other means, any protected information other than  
2 as permitted by this Order or subsequent order by the Court.

3           6. Any designation of Confidential Discovery Materials under  
4 this Protective Order shall not be construed as an admission or an agreement by  
5 any party that any document, material or information, or any portion thereof,  
6 constitutes competent, material, relevant, or admissible evidence in this case.

7           7. Nothing herein shall be construed as a waiver by any party of  
8 the right to contest the designation of documents as Confidential under this  
9 Stipulated Protective Order. A party may challenge, by motion, the propriety of  
10 a confidential designation at any time, after first conferring with the Producing  
11 Party to attempt to resolve the matter without seeking court intervention.

12           8. Pending this Court's determination, no document designated  
13 as Confidential under this Order shall be disseminated other than as provided by  
14 this Order unless otherwise ordered by the Court or as stipulated by the  
15 Stipulating Parties. To the extent that this Court determines that a document  
16 designated as Confidential under this Order is not entitled to protection under  
17 this Order, then said document will be considered non-confidential and  
18 non-protected for purposes of this litigation.

19           9. Pursuant to the terms and requirements of this Stipulated  
20 Protective Order, the Producing Party may designate as Confidential all or any  
21 part of Discovery Materials produced by it in the course of litigation or in  
22 response to initial disclosures or discovery requests, including any documents,  
23 electronic files or data compilations produced in depositions, as well as  
24

1 deposition transcripts and exhibits, or portions thereof, that contain or constitute  
2 confidential information.

3           10. The designation of Discovery Materials as Confidential shall  
4 be made by placing or affixing on the material in a manner that will not interfere  
5 with its legibility the words “CONFIDENTIAL – SUBJECT TO PROTECTIVE  
6 ORDER” as long as the designation is conspicuously placed on produced  
7 documents in a uniform manner. The designation shall be made prior to, or  
8 contemporaneously with, production or disclosure of that material. All copies,  
9 duplicates, extracts, summaries, or descriptions (hereinafter referred to  
10 collectively as “Copies”) of documents designated as Confidential pursuant to  
11 this Order, or any portion of such a document, shall be immediately affixed with  
12 the designation CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER, if  
13 the words do not already appear on the Copy. All such Copies shall be afforded  
14 the full protection of this Order.

15           11. Deposition testimony or any portion thereof may be  
16 designated Confidential by notifying all Stipulating Parties either (a) on the  
17 record at the time of the deposition or (b) by writing within fifteen (15) days of  
18 receipt of the final transcript by counsel making the designation specifying the  
19 testimony being designated by page and line number. Until the expiration of  
20 such 15-day period, the text of the deposition transcript relating to Confidential  
21 Discovery Material, including all testimony therein, shall be treated as  
22 Confidential under this Order. Any testimony that describes Confidential  
23 Discovery Material may be designated as Confidential. Similarly, any deposition  
24 exhibits that have been marked Confidential shall be treated as Confidential

1 documents under the terms of this Protective Order and shall not be annexed to  
2 the deposition transcript as exhibits thereto unless the transcript is marked  
3 accordingly to maintain the confidentiality of documents. If the party seeking to  
4 maintain a deposition transcript as Confidential does not make such a  
5 designation on the record at the time of the deposition or does not serve a letter  
6 on the court reporter and all Stipulating Parties designating the material as  
7 confidential within fifteen (15) days of receipt of the final deposition transcript,  
8 then the transcript shall be deemed not to contain any Confidential Discovery  
9 Materials. To the extent any party seeks to use any Confidential testimony or  
10 portion of testimony relating to Confidential Discovery Materials for the purpose  
11 of litigation prior to fifteen (15) days of receipt of the final deposition transcript,  
12 the party seeking to use such material shall provide notice and meet and confer  
13 with the party who bears the burden of designating such material or testimony  
14 as Confidential.

15           12. The Producing Party may use redactions to protect attorney-  
16 client privilege; attorney work product; information prohibited from disclosure  
17 by federal, state, or foreign statutes or regulations; medical information  
18 concerning any individual who is not a party to this litigation; personal  
19 identifying information; and non-responsive information regarding products not  
20 at issue in this litigation. The reason for the redaction shall be noted in text upon  
21 the redacted area (“Redacted – Privilege”, “Redacted – PII”, etc.) Any privilege  
22 redactions shall be identified in a privilege log that complies with the requirements  
23 of FRCP 26(b)(5). All documents containing redactions for reasons other than  
24

1 privilege will be identified by Bates number in a redaction log, with the reason  
2 for the redaction indicated (e.g. “Personal Identifiable Information”).

3 13. The Producing Party may in good faith fully withhold  
4 documents whose entire contents are deemed to be protected under the attorney-  
5 client privilege or work product doctrine. For documents withheld from  
6 production pursuant to a claim of attorney-client privilege or work product  
7 protection, the Producing Party shall provide a privilege log within 30 days  
8 following the production of documents from which the privileged documents are  
9 withheld.

10 14. A party may not file in the public record any Confidential  
11 Discovery Materials without written permission from the Producing Party or a  
12 Court Order secured after appropriate notice to the Stipulating Parties.

13 15. Confidential Discovery Materials shall not be disclosed to any  
14 other person or entity, including, but not limited to, other parties to this litigation  
15 who are not Stipulating Parties, except in the following circumstances:

16 a. Disclosure may be made to employees of counsel for the  
17 Stipulating Parties who have direct functional responsibility for  
18 assisting in the preparation and trial of this action or any appeal  
19 herein and who shall become subject to, in advance of the  
20 disclosure, this Protective Order;

21 b. Disclosure may be made to consultants or experts (collectively  
22 “Experts”) employed by the Stipulating Parties or their counsel  
23 to assist in the preparation and trial of this litigation, provided  
24 that prior to any disclosure, the Experts agree to be bound by the

1 terms of this Stipulated Protective Order by executing Exhibit A  
2 hereto, which shall be kept by the Party retaining the subject  
3 Expert. At the conclusion of the litigation, including any appeal,  
4 counsel for the Receiving Party shall confirm in writing that it  
5 will seek to have Confidential Discovery Materials provided to its  
6 Experts returned to counsel for the Producing Party or destroyed.  
7 Before disclosing Confidential Discovery Material to any  
8 person, the party proposing to make such disclosure will assure  
9 itself that the person to whom Confidential Discovery Material  
10 will be disclosed is not a competitor (or a current employee of a  
11 competitor) of the Producing Party. In the event that a party  
12 proposes to make disclosure of Confidential Discovery Material  
13 to a competitor (or employee, officer, director, or consultant of a  
14 competitor, or anyone, who, at the time of disclosure, is  
15 anticipated to become an employee, officer, director, or  
16 consultant of a competitor) of the Producing Party, the party  
17 proposing to make such disclosure will give at least ten (10)  
18 days advance notice in writing, which will identify the  
19 person(s) to whom the disclosure will be made, to counsel for  
20 the Producing Party. If, within the 10-day period, the Producing  
21 Party objects in writing to the proposed disclosure, disclosure  
22 will not be made until the parties have resolved the matter or until  
23 the court has ruled on it.



- 1 c. Disclosure may be made to the Stipulating Parties to the extent  
2 required for assisting in the preparation and trial of this matter or  
3 any appeal herein, provided that prior to any disclosure, the Party  
4 shall be advised of and shall become subject to the terms of this  
5 Order by executing Exhibit A hereto;
- 6 d. Disclosure may be made to the Court and court personnel  
7 (including the court having jurisdiction over any appeal);
- 8 e. Disclosure may be made to court reporters only for the purpose  
9 of transcribing or otherwise memorializing proceedings,  
10 including depositions, in this litigation, provided that prior to any  
11 disclosure, the court reporter shall be advised of and shall become  
12 subject to the terms of this Order. Any court reporter to whom  
13 disclosure is made shall hold the material and information in  
14 confidence and shall not sell, distribute, or otherwise disclose the  
15 material and information to anyone other than counsel of record;
- 16 f. Disclosure may be made to any person who (i) authored or received  
17 a copy of any Confidential Discovery Material before it was  
18 produced in this litigation or (ii) was present or participated in a  
19 meeting or discussion of any Confidential Discovery Material  
20 before it was produced in this litigation;
- 21 g. Disclosure may be made to any mediators, secretaries,  
22 paraprofessional assistants, and other employees of such  
23 mediators who are actively engaged in assisting the mediators in  
24 connection with this matter, provided that prior to any disclosure

1 the individuals shall be advised of, and shall become subject to  
2 the terms of this Order;

3 h. Disclosure may be made to employees of outside copying, document  
4 imaging, litigation, trial support, and facsimile services, provided  
5 that prior to any disclosure, such employees shall be advised of and  
6 shall become subject to the terms of this Order;

7 i. Disclosure may be made to witnesses or deponents in the course of  
8 this litigation only as necessary for the litigation provided that, if the  
9 witness or deponent is not an employee or agent of the Producing  
10 Party prior to any disclosure, the witness or deponent shall be  
11 advised of and shall become subject to the terms of this Order by  
12 executing Exhibit A hereto. The executed acknowledgement shall be  
13 retained by counsel for the Receiving Party with a copy provided to  
14 counsel for the Producing Party where providing a copy does not  
15 violate the attorney-client privilege, the work-product privilege, or  
16 any other privilege.

17 16. All recipients of Confidential Discovery Materials shall maintain  
18 such material within their exclusive possession and control, and shall take reasonable  
19 steps to maintain such material in a secure manner.

20 17. Any person having access to Confidential Discovery Materials,  
21 including consultants and experts, are permitted to make copies, extracts, summaries,  
22 or descriptions of the material or information or any portion thereof as necessary for  
23 the preparation and trial of this litigation, in accordance with Paragraph 10 of this  
24 Order.

1                   18.    See order issued concurrently herewith.

2  
3  
4  
5  
6  
7  
8  
9  
10               19.    If another court or an administrative agency subpoenas or  
11 otherwise orders production of Confidential Discovery Materials that a person  
12 has obtained pursuant to the terms of this Order, the person to whom the  
13 subpoena or other process is directed shall notify within five (5) days the court  
14 or administrative agency that issued the subpoena or other process that the  
15 requested materials are subject to a Protective Order, and the person to whom  
16 the subpoena or other process is directed shall also notify within five (5) days  
17 counsel for the Producing Party in writing via email, facsimile, or overnight  
18 delivery of all of the following: (a) the Confidential Discovery Materials that are  
19 requested for production in the subpoena; (b) the date on which compliance is  
20 requested or required; (c) the location at which compliance is requested or  
21 required; (d) the identity of the party seeking the materials; and (e) the case  
22 name, jurisdiction, docket, complaint, charge, civil action, or other identification  
23 number or other designation identifying the litigation, administrative, or other  
24 proceeding in which the subpoena or other process has been issued. In no event

1 shall Confidential Discovery Materials be produced prior to the expiration of ten  
2 (10) days following transmission of written notice to counsel for the Producing  
3 Party unless required to do so by the subpoena or order seeking the documents.  
4 Nothing in this Order shall prohibit the Producing Party from seeking to intervene  
5 in any litigation, administrative, or other proceeding in which the subpoena or  
6 other process has been issued.

7           20. If any party learns of any unauthorized disclosure of  
8 Confidential Discovery Materials by any individual, the party shall immediately  
9 consult with the other Stipulating Parties to resolve any issue of unauthorized  
10 disclosure consistent with this Order. If judicial relief is still needed, the  
11 Stipulating Parties shall inform the Court in writing of all pertinent facts relating  
12 to such disclosure.

13           21. Inadvertent production of any Discovery Materials without a  
14 designation of Confidential will not be deemed to waive a later claim to its  
15 confidential nature or preclude a party from designating said document or  
16 information as Confidential pursuant to this Order at a later date. Any party may  
17 designate as Confidential or withdraw a Confidential designation from any  
18 Discovery Materials that it has produced or provided, but such re-designation  
19 shall be effective only as of the date of such re-designation. A party must treat  
20 such documents and things with the noticed level of protection from the date  
21 such notice is received. Such re-designation shall be accomplished by notifying  
22 counsel for each party in writing of such re-designation and providing  
23 replacement images bearing the appropriate designation. Upon receipt of any re-  
24 designation and replacement image that designates Discovery Material as

1 Confidential all Stipulating Parties shall (1) treat such material in accordance  
2 with this Order; (2) take reasonable steps to notify any persons known to have  
3 possession of any such material of such re-designation under this Order; and (3)  
4 promptly endeavor to procure all copies of such material from any persons  
5 known to have possession of such material who are not entitled to receipt under  
6 this Protective Order.

7           22. Inadvertent production of documents subject to work-product  
8 immunity, the attorney-client privilege, or other legal privilege protecting  
9 information from discovery shall not constitute a waiver of the immunity or  
10 privilege. With respect to such inadvertently produced documents, the  
11 following procedures shall apply, and the parties agree that such procedures  
12 constitute reasonable and prompt steps to prevent disclosure and to rectify the error  
13 of disclosure, pursuant to the Federal Rules of Civil Procedure:

- 14           a. The party discovering the inadvertent production will contact the  
15           opposing party to apprise that party of such production promptly.
- 16           b. If no dispute exists as to the protected nature of the inadvertently  
17           produced documents, any party in possession of inadvertently  
18           produced documents (“party in possession”) shall, within fifteen  
19           (15) days of receiving the notice of inadvertent production,  
20           destroy the inadvertently produced documents along with any  
21           copies and notes or other work product reflecting the contents of  
22           such documents, including the deletion of all inadvertently  
23           produced documents from any litigation-support or other  
24           database. In the event that only portions of the inadvertently

1 produced documents contain privileged subject matter, the  
2 Producing Party shall substitute redacted versions of the  
3 documents within ten (10) days of the certification of destruction  
4 of the inadvertently produced documents.

5 c. If the party in possession believes that the documents are not  
6 subject to the protections of work-product immunity, attorney-  
7 client privilege, or other legal privilege protecting information  
8 from discovery, the party in possession shall, within fifteen (15)  
9 days of sending or receiving the notice of inadvertent production,  
10 object to the Producing Party's claim of protection by notifying  
11 the Producing Party of the objection in writing and specifically  
12 identifying the produced documents to which the objection  
13 applies. Upon the Producing Party's receipt of written  
14 notification, the parties will confer in an effort to resolve the  
15 dispute without Court intervention. If the parties cannot resolve  
16 the dispute, any party can, within fifteen (15) days of reaching an  
17 impasse, file a motion with the Court seeking an *in camera*  
18 review of the documents in question. The proponent of the  
19 privilege or immunity has the burden of proving by a  
20 preponderance of the evidence that the inadvertently produced  
21 documents are entitled to protection. If the Court determines that  
22 the inadvertently produced documents are entitled to work-  
23 product immunity, attorney-client privilege, or other legal  
24 privilege protecting information from discovery, the party in

1 possession shall, within fifteen (15) days of the Court's decision,  
2 comply with the provisions of paragraph 22(b), above.

3 d. Upon receipt of notice of inadvertent production pursuant to  
4 paragraph 22(a) and until the parties have resolved the issue  
5 pursuant to paragraph 22(b) or (c), no use shall be made of  
6 inadvertently produced documents during depositions or at trial  
7 nor shall they be disclosed to anyone who did not previously  
8 have access to them.

9 23. Upon final termination of this action, whether by judgment,  
10 settlement, or otherwise, counsel for all Stipulating Parties shall return to  
11 counsel for the Producing Party all materials and all copies thereof in his/her  
12 possession that were designated by the Producing Party as Confidential  
13 Discovery Materials in accordance with this Order, unless otherwise agreed or  
14 ordered. If counsel for any Stipulating Party does not receive a written request  
15 for the return of the aforesaid materials and copies within ten (10) days of final  
16 termination of this action, then counsel for any such Stipulating Party may  
17 destroy said materials and copies.

18 24. Any party for good cause shown may apply to the Court for  
19 modification of this Protective Order, or the Protective Order may be modified by  
20 consent of the Stipulating Parties in writing. This Stipulated Protective Order shall  
21 remain in full force and effect after the termination of this action.

22 25. Nothing in this Stipulation is intended to supersede any court  
23 rule or statute. In the event of a conflict between any portion of this Stipulation and  
24 any applicable rule, law, or statute, the rule, law, or statute shall prevail.

1 THE VIEIRA FIRM, PLLC

KAEMPFER CROWELL

2  
3 /s/ Andréa L. Vieira

4 Andréa L. Vieira, No. 15667  
3100 W. Charleston Blvd., Suite 100  
Las Vegas, Nevada 89102

5 Attorneys for Plaintiff Michele Brown



Robert McCoy, No. 9121  
Sihomara L. Graves, No. 13239  
1980 Festival Plaza Drive, Suite 650  
Las Vegas, Nevada 89135

Alyson Bustamante Jones (*pro hac vice*)  
BUTLER SNOW LLP  
1020 Highland Colony Pkwy, Suite 1400  
Ridgeland, Mississippi 39158

Attorneys for Defendant Zeltiq  
Aesthetics, Inc.

6  
7  
8  
9  
10 COLLINSON, DAEHNKE, INLOW  
& GRECO

11  
12 /s/ Linda K. Rurangirwa

13 Patricia Egan Daehnke, No. 4976  
Linda K. Rurangirwa, No. 9172  
2110 E. Flamingo Road, Suite 212  
Las Vegas, Nevada 89119

14  
15 Attorneys for Defendant Orange  
Twist, LLC

16  
17 **ORDER**

18 IT IS SO ORDERED.

19  
20  
21   
UNITED STATES MAGISTRATE JUDGE

22 DATED: October 6, 2022



**EXHIBIT A**

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

MICHELE BROWN,

Plaintiffs,

vs.

ZELTIQ AESTHETICS, INC.;  
ORANGE TWIEST LLC; DOES 1–10;  
ROE CORPORATIONS 11–20; ABC  
LIMITED LIABILITY COMPANIES  
21–30,

Defendants.

Case No. 2:22-cv-00972-RFB-NJK

**STIPULATED CONFIDENTIALITY  
AND PROTECTIVE ORDER**

**CONFIDENTIAL UNDERTAKING**

The undersigned hereby acknowledges that he/she has read the Stipulated Confidentiality and Protective Order executed by the attorneys of record for the Stipulating Parties in this case and understands the terms thereof, and agrees, upon threat of penalty of contempt, to be bound by such terms.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_